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curred in an illegal act, they are regarded as not equally guilty, where one party has been induced to enter into the contract through fraud, and under such circumstances equity will intervene to relieve against the fraud when public good requires it. Plaintiff was induced to convey realty and give note for stock, the value of which was misrepresented by one of the defendants, who made an illegal agreement with plaintiff, by which the latter was to be elected secretary and attorney of the company. The other defendant participated in the fraud and received the conveyance and note, crediting with them his co-defendant, who was indebted to him.

An action cannot be maintained on an illegal contract where plaintiff and defendant are equally culpable. *Hanover Nat. Bank v. First Nat. Bank,* 109 Fed. 421. But if the parties are not *in pari delicto* the party taken advantage of may recover the money paid. *Concord v. Delaney,* 58 Me. 309. This was held to be so where the plaintiff paid money to check prosecution of her husband by defendant. *Woodham v. Allen,* 130 Cal. 194. In Kansas it has been held that one who makes a part payment for liquor to be illegally sold is not *in pari delicto* and may recover the sum paid. *Stansfield v. Kunz,* 62 Kans. 797. So where one makes use of criminal process to overcome will of another. *Gorringe v. Read,* 23 Utah 120. But a bribe paid to the attorney of an adverse litigant was held in New York to be not recoverable. *Dake v. Patterson,* 5 Hun. 558. Where, however, the party is induced by fraud to enter into an illegal agreement, many courts allow a recovery, even when the contract has been executed, if public policy is thereby advanced. Such an illegal contract was set aside in *Boyd v. De la Montagnie,* 73 N. Y. 498; the defendant induced his wife to transfer property with intent to defraud creditors, on his false representations that she was liable for certain debts and would lose her property. This is similar to the principal case and illustrates the general rule. *Crossley v. Moore,* 40 N. J. L. 27; *Foley v. Greene,* 14 R. I. 618; *Harrington v. Grant,* 54 Vt. 236; *Green v. Corrigan,* 87 Mo. 359; *McBlair v. Gibbes,* 17 How. 232.

CONSTITUTIONAL LAW—POLICE POWER—PUBLIC DISPLAY OF RED FLAGS.—COMMONWEALTH V. KARWONEN, 106 N. E. (MASS.) 556.—*Held,* that an act forbidding the display of red flags in parades, as inimical to public order and morals, is a constitutional exercise of the police power.

The minute censorship of private conduct assumed by the statute under consideration may be readily paralleled by other acts similarly upheld. *People v. Van De Carr,* 91 App. Div. (N. Y.) 20 (mutilation of national flag forbidden); *Com. v. Sherman Mfg. Co.,* 189 Mass. 76 (use of great seal as trade-mark prohibited). Unquestionably the police power extends to the prevention of practices merely indirectly menacing to the public peace and order. *State v. Boyd,* 91 Atl. (N. J.) 586; *Davis v. Com.,* 167 U. S. 43; *Updegraph v. Com.,* 11 Serg. & Rawl. (Pa.) 406; *People v. Most,* 171 N. Y. 423. The act must have a tendency reasonably conducive to its professed object. *State v. Redmon,* 134 Wis. 89. But the mere fact that certain cases fall within the prohibition, which do not fall within the scope of the justifying purpose, does not suffice to invalidate

the statute. *People v. McGuire,* 113 App. Div. (N. Y.) 631; *People v. Ewer,* 8 N. Y. Cr. Rep. 383; *State v. Warren,* 113 N. C. 683. When, however, the provisions, though in a measure pertinent to the object, are needlessly sweeping, extending palpably beyond the justifying purpose, it is the prevailing judicial tendency to declare the statute void. *People v. Warden of N. Y. City Prison,* 157 N. Y. 116 (ticket brokerage forbidden,—professed object, prevention of fraudulent sales); *People v. Marx,* 99 N. Y. 377 (manufacture and sale of oleomargarine forbidden,—object, the prevention of the fraudulent substitution for butter); *Weisner v. Village of Douglas,* 64 N. Y. 91 (taxation condemned as confiscation); *People v. Green,* 85 App. Div. (N. Y.) 400 (regulation of billboards condemned as needlessly sweeping); *R. R. Co. v. Husen,* 95 U. S. 465 (prohibition of the importation of cattle, condemned as extending beyond the necessities of quarantine). Under the literal construction given to the Massachusetts statute, the holding of the principal case seems to deviate from, as its opinion clearly ignores, the judicial tendency last mentioned.

CONTRIBUTION—JOINT TORT—FEASORS—NEGLIGENCE—FURBECK V. GEOURTZ & SON, 143 PAC. (ORE.) 654.—*Held,* where a personal injury was not caused intentionally, a right of contribution exists between the persons whose negligence caused the injury.

The general rule is that there is no contribution between joint wrong-doers. *Merryweather v. Nixon,* 8 Term Reports 186. But this general doctrine has been limited in its scope by the courts so that the rule is held not to apply where the party seeking contribution was a tort-feasor only by inference of law. *Bailey v. Bussing,* 28 Conn. 455. To deprive one of the right of contribution, the wrongful act must have been *malum in se. Buskirk v. Sanders,* 73 S. E. (W. Va.) 973. The rule applies only to cases where the parties who claim contribution have engaged together in doing knowingly or wantonly a wrong. *Acheson v. Miller,* 2 Oh. St. 203. The test of recovery is whether the plaintiff at the time of the commission of the act for which he has been compelled to pay, knew that such act was wrongful. *Torpy v. Johnson,* 43 Neb. 882. Where attachment creditors attached the supposed goods of their debtor which they honestly believed had been fraudulently transferred to a third party, contribution for this trespass was allowed. *Farwell v. Baker,* 129 Ill. 261; *Vandiver & Co. v. Pollak,* 107 Ala. 547. In cases of joint negligence, the weight of authority seems to be opposed to the principal case. One, whose negligent act, in concurrence with a separate and distinct negligent act of another, has been the proximate cause of an injury, for which he has been compelled to pay, cannot recover by way of contribution from the other tort-feasor. *City of Louisville v. Louisville Ry. Co.,* 156 Ky. 141; *Central Ry. Co. v. Macon Ry. & Light Co.,* 9 Ga. App. 628; *Spalding v. Adm'r of Oakes,* 42 Vt. 343. There are cases, however, which support the view of the principal case that the rule disallowing contribution between joint wrong-doers has no application to torts which are the result of unintentional negligence. *Mayberry v. Northern Pac. Ry. Co.,* 100 Minn. 79; *Armstrong County v. Clarion*